

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

ANDREW SMITHERMAN, :
: :
Petitioner. :
: :
vs. : CIVIL ACTION 10-0250-WS-M
: :
LOUIS BOYD, :
: :
Respondent. :
:

ORDER

After due and proper consideration of all pleadings in this file, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted as the opinion of this Court.

It is ORDERED that this habeas petition be DENIED and that this action be DISMISSED. It is further Ordered that Petitioner's Certificate of Appealability, should he file one, be DENIED.

DONE this 25th day of October, 2010.

s/WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE